

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

Initially, Applicants would like to thank the Examiner for the indication that claim 22 contains allowable subject matter and would be allowed if rewritten in independent form including any limitations of its base claim and any intervening claims.

In response, claims 1-21 and 23-26 have been canceled and dependent claim 22 has been written in independent form to incorporate the features of claim 1 and intervening claim 16.

Accordingly, Applicant respectfully submits that claim 22 patentably distinguishes over the cited prior art and should be allowed.

In the Official Action, the Examiner rejects claims 1-21 and 23-26 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,906,622 to Lippitt et al., (hereinafter "Lippitt").

As discussed above, claims 1-21 and 23-26 have been canceled thereby rendering the rejection thereof moot. Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 1-21 and 23-26 under 35 U.S.C. § 102(b).

Lastly, new claims 27-35 have been added to further define the patentable invention. New claims 27-35 are fully supported in the original disclosure. Therefore, no new matter has been entered into the disclosure by way of the addition of new claims 27-35.

An objective of the present invention is to expand at least one filament in a desired shape in a medical retrieval instrument having the at least one filament for holding an object in the distal end portion thereof. The specification, beginning at the last line of page 1 recites:

"Unless one end of the wire basket is fixed to the distal end of the sheath precisely at a predetermined position, the wire basket does not expand to a desired shape."

To attain this result, it is necessary to properly fix a filament (e.g., a wire basket) at a predetermined position. For this requirement, a fixing member is provided which has **an accommodation part** (e.g., a groove, hole, etc.) for accommodating and fixing one end of the filament in the medical retrieval instrument.

Since the filament is located in the distal end portion of the medical retrieval instrument, if the accommodating part is not provided in the distal end portion and the distance between the fixing position and the distal end portion is long, the filament may not expand into the desired shape. Because of this reason, the fixing member is located in the distal portion of the instrument.

Therefore, as described above, the present invention can have the following features:

1. adopting a fixing member having an accommodation part for accommodating and fixing one end of the filament;
2. providing the fixing member in the distal end portion of the instrument.

Because of these features, the filament can be expanded into a desired shape.

On the other hand, Lippitt discloses or suggests neither of these features. With regard to the first feature, the grooves or holes depicted in Figs. 28-30 of Lippitt are used as wire guides for guiding a moving wire. Therefore, Lippitt does not suggest making an accommodation part (for example, a hole or groove) to fix a wire. With regard to the second

feature, in Lippitt the wires are fixed not in the distal end portion of the instrument, but at the inside of the main body.

Further, in Lippitt one end of each wire is fixed at the proximal end of one of four flexible tubes (Figs. 3 and 10). Although this configuration is complex and fat in cross-section, since the wire is free in the tube, the shape of the wire may not be strictly controlled. Furthermore, Lippitt's Figures 2 and 8 suggest that the wires may not expand long enough beyond half circles.

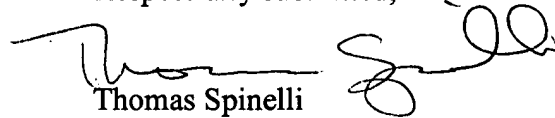
On the other hand, the instrument, as recited in new claims 27 and 33-35 have an accommodation part in the distal end portion of the instrument. Therefore, the configuration of the instrument may be simple and slim, and the filament may easily expand long enough beyond half circles.

For at least these reasons, it is respectfully submitted that new claims 27 and 33-35 patentably distinguish over the Lippitt reference and are allowable. Claims 28-32 are at least allowable therewith as depending from an allowable base claim (claim 27).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone

conference with Applicant's attorneys would be advantageous to the disposition of this case,
the Examiner is requested to telephone the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Thomas Spinelli', with a stylized flourish at the end.

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